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SUMMARY RECORD OF THE 1103rd MEETING

Held at the Palais des Nations, Geneva,
on Monday, 28 October 1991, at 3 p.m.

Chairman: Mr. POCAR

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The meeting was called to order at 3.10 p.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT (agenda item 4) (continued) (CCPR/C/58/Add.10 and Add.13; M/CCPR/91/36/Rev.3)

1. The CHAIRMAN said that the Committee was continuing its consideration of the third periodic report of Poland (CCPR/C/58/Add.10 and Add.13). He invited the Polish delegation to reply to the questions which had been asked by members of the Committee concerning section I of the list of issues to be taken up in connection with the consideration of the report (M/CCPR/91/36/Rev.3).

2. Mrs. SKORZEWSKA-LOSIAK (Poland) said that rather than reply individually to each question, she had endeavoured to reply globally to the various questions that had been asked on the same points.

3. On the question of the status of the international instruments ratified by Poland in Polish domestic law, and in particular the direct implementation of the Covenant, she stated that responsibility in that area lay with the Administrative High Court, whose president was none other than Mr. Zielinski, a former member of the Committee. The jurisprudence of Polish courts had evolved considerably in recent years, and all international instruments ratified by Poland now had the status of law within the internal legal order. Thus, some independent courts had handed down decisions based on provisions of the Covenant. In addition, the Constitutional Court played a fundamental role: it determined the status of the provisions of the international instruments in the internal legal order, and advised the Diet and the Senate on amendment of the Constitution. It had thus stated that the international human rights instruments prevailed over ordinary national legislation. The draft amendments to the Constitution which should be approved shortly by Parliament were being prepared with the Covenant as a model. Apart from the rights embodied in the Covenant, slavery and imprisonment for debt had been abolished in Poland, and the rights and freedoms embodied in the Constitution could not be interpreted in such a way as to restrict or limit the exercise of the rights established in the international instruments ratified by Parliament, instruments which had binding force and prevailed over ordinary legislation in the event of incompatibility.

4. The publicity given to the provisions of the Covenant had certainly not been as extensive as it should have been and measures were now being taken to remedy that shortcoming. Thus, in May 1991, her Government had concluded an agreement with the Centre for Human Rights with a view to strengthening human rights documentation and information services. The Centre was providing its financial support for the execution of the programme, which was of two years' duration. In addition, her Government was cooperating closely with the Council of Europe, and the Helsinki Committee was promoting the teaching of human rights in Polish schools, law faculties and work-related courses. When Poland acceded to the Optional Protocol, publicity in that area would be intensified. A series of publications relating specifically to human rights had already been appearing regularly since 1989 and, in due course, the text of the Optional Protocol would be published in the official gazette of the Republic of Poland. Polish citizens would of course still have reasons for

addressing complaints to the Committee owing to a certain ineffectiveness of the legal and administrative system, but the reforms initiated should make it possible to limit the number of such complaints, because the Government would scrupulously ensure that the persons concerned had exhausted all available domestic remedies.

5. In connection with the disparity between the number of complaints addressed to the Civil Rights Spokesman and that of cases which had been settled, it should be emphasized that certain complaints had been submitted before the Spokesman's appointment and that he was accordingly not competent to deal with them. In fact, most of the allegations related to disputes between individuals, in which the Spokesman was not necessarily required to intervene, his main role being to examine final decisions which normally concerned infringements of the law.

6. There were no longer any special commissions in Poland and the only special courts were the military courts, which were competent in cases concerning military personnel. Far-reaching changes had been made in the organization of the misdemeanour commissions because it had become apparent that they had served mainly to impose penalties on members of the political opposition. Those commissions now acted within the district courts and were subordinate not to the Ministry of the Interior, but to the Ministry of Justice. Members of the commissions were independent and were required to comply with the Code of Criminal Procedure in imposing penalties, generally for minor offences, and that had reduced the workload of the courts.

7. The law on the rehabilitation of persons convicted in Stalin's time provided that persons found guilty and victims of repression for having fought for the independence of the Polish State should be amnestied and compensated. Since several hundred cases of that type had had to be examined by the courts every year, it had been necessary to enact a law providing for the rapid cancellation of the penalties imposed on those persons, who had suffered for many years from the misdeeds of Stalinism. The law also applied to persons who had been convicted between 1944 and 1956, even in cases where those persons were no longer alive. As to persons who had suffered unjust repression since that period, in particular under martial law, a special procedure was applicable to them. She wished to point out, in order to dispel the concern of one member of the Committee, that that policy, which he had described as a "clean slate", concerned only convictions for lawful activities and not for infringements of the law.

8. Responsibility for transcribing provisions of international law in Polish law lay not only with the Senate Commission on Human Rights, but also with the Legislative Commission of the Diet, the Parliamentary Commission of Justice, the Constitutional Commission and the Senate Commission on Rights and Initiatives, all of which ensured in particular that the legislation drafted was in conformity with the provisions of the Covenant. The initial persistence of provisions such as article 270 of the Penal Code might have aroused some doubt about compliance with human rights and fundamental freedoms in Poland, but in the draft Penal Code which had already been submitted to the Minister of Justice by the above-mentioned commissions, that article no longer

appeared. In that connection, it should be pointed out that, in the case of Stanislaw Tyminski, to which reference had been made, the inquiry had not been continued.

9. Pursuant to the amendments made to the Constitution in December 1990 and other new provisions, the functions of the Public Prosecutor had been entrusted to the Minister of Justice, which enabled the Diet to exercise a certain control in that area and the Minister himself to influence the decisions of the courts in complete legality, without recourse to extraordinary procedures.

10. With regard to the appointment of judges, revolutionary changes, in the positive sense of the term, had been made within the context of the Constitution and the laws governing the organization of the ordinary courts, the Adminstrative High Court and the National Judicial Council. In order to dispel the concerns expressed about the danger of interference by the President of the Republic in the appointment of judges, it should be made clear that a new judge was nominated by the judges belonging to the court concerned, the candidature then being submitted to the National Judicial Council, which was composed of 15 judges elected by their colleagues, 4 deputies elected by the Diet and 2 senators elected by the Senate. The President of the Republic could appoint only one candidate endorsed by the National Judicial Council, and if he intervened in the procedure, it was simply in order to give it a more solemn character and to lend the judges a certain status.

11. With regard to the abolition of capital punishment, it would be recalled that to that end the deputies had, in 1989, submitted a bill which, after a first reading had been transmitted to a commission. Although the question remained controversial, the death penalty had been eliminated from the new draft Constitution and draft Penal Code. When the question had been finally settled in the domestic sphere, Poland would be able to consider acceding to the second Optional Protocol for the abolition of the death penalty. In any event, no person sentenced to death had been executed for a long time and no sentence to capital punishment had been pronounced for three years.

12. The Civil Rights Spokesman, to whom Mr. Ando had referred, shed light on many problems connected with the enforcement of legislation, particularly with regard to issuing passports, the activities of the misdemeanour commissions and conditions of detention. Since the Spokeman had taken up his duties in 1988, his activity had applied to the measures in force at that time, but today new provisions had been introduced offering possibilities of appeal via administrative procedures, since any judgement could now be reviewed by the Administrative High Court. Decisions taken concerning the right of asylum and permanent residence permits for foreigners could also be the subject of appeals. In addition, it should be pointed out that in Poland the bar was completely independent.

13. The problems of anti-Semitism and incidents such as those in which gypsies had recently been involved were not peculiar to Poland; they also occurred in other countries. In that area, prevention was not always

effective, but she could not accept that such attitudes should be termed traditional, since Poland's history provided an example of tolerance and respect for minorities.

14. As to the question of the treatment of detainees, in 1991, the Committee responsible for ensuring the implementation of the Helsinki agreements had transmitted to the Polish authorities a list of 93 cases of ill-treatment by the Polish police. The inquiry into that question had shown that there had in fact been 590 cases of that nature. Thirty-three of them had led to charges, and, in the other cases, no proceedings had been initiated. The Polish authorities systematically investigated all complaints of that nature, whether they were substantiated or not. Since March 1991, 17 police or prison officers had been charged for cases of that kind. In one case, the persons responsible had caused the death of a detainee. In order to deal with that very serious problem, new legislation establishing regulations concerning police activities had been enacted. Henceforth, if a policeman broke the law in a manner constituting infringement of human rights, he was liable to five years' imprisonment, in the same way as if he ill-treated a detainee or simply threatened him in order to obtain a confession. A directly superior officer who had given the relevant orders was also liable to the same punishment.

15. The CHAIRMAN said that the Committee had thus completed its consideration of section I of the list of issues relating to the third periodic report of Poland. He invited members to move on to section II, which read:

"II. State of emergency (art. 4)

(a) Please clarify under which circumstances martial law or a state of emergency can be proclaimed; the procedures to be followed; and the authority empowered to take such a decision. What rights can be derogated from during such a situation?

(b) Please elaborate on the powers of the police and the military in a state of emergency."

16. Mrs. SKORZEWSKA-LOSIAK (Poland) said that the conditions in which martial law or a state of emergency could be proclaimed were defined in the Constitution and the law. Martial law could be proclaimed by the President of the Republic in all or part of the national territory if reasons of defence or external danger so required. A state of national emergency could also be proclaimed for a period of three months in the event of a threat to internal security or national disaster. It could be extended by a maximum of three months, with the agreement of the Senate and the Diet. The proclamation of martial law or a state of national emergency entailed the temporary suspension or limitation of certain fundamental civil rights in that it permitted house searches, the censorship of correspondence, monitoring of telephone or telex communications, suspension of exercise of the rights of association and assembly, and a ban on demonstrations. Persons over the age of 18 could be arrested if the authorities considered that they were liable to break the law. That provision applied both to Poles and to foreign nationals, unless the international instruments to which Poland was a party provided otherwise, for example, by specifically excluding foreigners from their scope.

17. When a state of national emergency was proclaimed in the event of a disaster, civil rights could also be derogated from through the imposition of certain obligations (personal service in rescue operations or compulsory vaccination, for example). Civil rights were also restricted in the event of the proclamation of a national state of emergency if internal security was endangered. The police forces could then take preventive action by questioning persons over the age of 14 who were behaving in a suspicious manner or were engaging in attempts to demoralize the population. Persons over the age of 18 could be arrested, tried and imprisoned when it was considered that, if they remained free, they would jeopardize the security of the State or break the law. Responsibility for such decisions lay with the provincial police commander. Persons detained under those provisions were subject to the same prison regulations as persons in pre-trial custody. Provincial police commanders could also restrict the movements of certain persons, expel them, forbid them to change their place of residence, or forbid the taking of photographs or video recordings. Once again, all those provisions were regulated by the Constitution and the National State of Emergency Act of 5 December 1983, as amended in 1989.

18. Mrs. HIGGINS thanked the Polish representative for giving very detailed information on the amendments to the legislation of her country in the context of the current situation and for admitting very frankly the problems which continued to arise. It was encouraging to see that enormous progress had been made since the Committee had considered Poland's previous report, which had elicited much more criticism.

19. She nevertheless found it somewhat disturbing that, under the state of emergency, a provincial police commander could order detention, a decision which was not judicial in nature and not susceptible of appeal to the courts. In order to conform to the provisions of international law on that question, were the Polish authorities considering removing that power from police chiefs and entrusting it to some other body?

20. Mrs. SKORZEWSKA-LOSIAK (Poland) said that the law in question, which had been enacted in 1983, would certainly have to undergo far-reaching revision. Although detention decisions under a state of emergency were not subject to appeal to the ordinary courts, they could henceforth be appealed against to the Administrative High Court. It must nevertheless be admitted that those remedies were still insufficient.

The meeting was suspended at 4.35 p.m. and resumed at 5 p.m.

21. The CHAIRMAN invited the Polish delegation to reply to the questions in sections III and IV of the list, bearing in mind that question (a) of section IV had already been dealt with. The questions were:

"III. Non-discrimination and equality of the sexes (arts. 2 (1), 3, 24 and 26)

(a) Please provide information on any legal provisions governing non-discrimination and equality of the sexes.

(b) What measures are being taken to eliminate discrimination on the ground of sex, in particular with regard to access by women to some professions and posts and also with regard to salaries and wages (para. 38 of the report).

(c) Please clarify the scope of the exceptions mentioned in paragraph 105 of the report and provide information on the meaning of the term 'the Church and other religious entities' in that context.

IV. Right to life (art. 6)

(...)

(b) Please provide information on tangible results, if any, obtained through the activities of the ad hoc commission set up to consider approximately 100 cases of deaths in mysterious circumstances during the 1982-1988 period (para. 44 of the report).

(c) What measures have been taken to protect the right to life against environmental pollution?"

22. Mr. RYMS (Poland) said that, although Polish legislation prohibited any type of discrimination and, consequently, discrimination on grounds of sex, in practice everything was not perfect. Certain regulations had even been considered discriminatory. The Constitutional Court had thus ruled that a regulation governing admission to medical studies, which had given priority to men, had been discriminatory.

23. Statistics for 1990 showed that the percentage of women in positions of responsibility or holding high-level appointments was substantially lower than that of men. For example, 62 deputies out of 460 and 7 senators out of 100 were women. Among ministers, vice-ministers and departmental directors, only 13 posts were held by women; it should be noted that the Minister of Industry was a woman.

24. The figures showed that, for equal work, the average wage received by women was less than that of men. The obviously complex reasons for such discrimination were common to many countries. The Government had set up a special post of governmental attaché for cases concerning women and the family, with responsibility for studying problems with a view to proposing governmental policy proposals. The Polish authorities were aware that the situation must be improved, but current economic circumstances offered little scope for manoeuvre. The ongoing changes gave rise to many problems, not the least of which was unemployment. And the State's budget was very limited.

25. The 1989 Act relating to guarantees of freedom of conscience and religion gave foreigners and stateless persons rights equal to those of Poles, with two exceptions. First, the church authorities or the authorities of any religious association who wished to appoint a foreigner to an executive post were required to inform the Minister for Trusteeship, who simply made a recommendation concerning the candidate. If he expressed a reservation, the church authorities were free to take it into account or otherwise. The second

exception originated from the interpretation given to one article of the 1989 Act, under which the formation of a religious association was subject to the presentation of a declaration by at least 15 Polish citizens. In order to obtain legal personality, a religious association in course of formation must therefore have at least 15 Polish citizens as members, and that could give rise to objections. In practice, however, that had never happened.

26. Mrs. SKORZEWSKA-LOSIAK (Poland), replying to the question raised in section IV (b), said that the ad hoc commission set up by the Diet to consider cases of deaths which might be attributable to officials of the Civic Militia or security services had no powers of investigation, but was entrusted with evaluating the results of the criminal proceedings concerning each of those cases. So far, the commission had dealt with 120 cases of unexplained deaths and had examined 115 of them, since the five others had already been under investigation by the Public Prosecutor at the time when the commission had been set up. In 24 of those 115 cases, the commission had established that there was no connection between the deaths and the activities of officials of the Ministry of the Interior. In the 91 other cases, it had formulated suggestions regarding the course of future action by proposing either that the case should be reopened if it had previously been dropped or that criminal proceedings should be instituted. In many cases, the commission had found that there had been serious negligence or hasty conclusions in the conduct of the investigations. Thus, in the case of the deaths of the miners killed in Upper Silesia on 17 December 1981, the authorities had accepted the a priori view that the police had fired in self-defence. The Parliament had endorsed the commission's proposal that proceedings should be instituted and had ordered the Public Prosecutor to carry out an investigation to identify those responsible. The Public Prosecutor was required to report on the results of his inquiry by 31 December 1992.

27. With regard to the environmental questions mentioned in subparagraph (c), the Polish authorities were aware of Poland's responsibility for the deterioration of the environment, as well as of the protection role it had to play because of its geographical position in Europe. They were beginning to understand the idea of "ecodevelopment". In that connection, a document on ecological policy had been adopted early in October containing recommendations on the measures to be taken to protect the environment. To date, however, the solutions which had begun to be put into practice still had not made it possible to halt the deterioration of the environment. There was a very close relationship between the country's economic situation and the effectiveness of environmental protection. Measures such as the conversion of the foreign debt into ecological investments, financial assistance from the World Bank and loans granted by the European Community and the 24 most industrialized countries were steps in the right direction. Legal solutions were not enough to abate pollution of the air and in the Baltic Sea and to protect fauna and flora, but they were essential and an act on the monitoring by the State of ecological conditions had been promulgated in 1990. It provided for penalties, particularly against industrial polluters. Factories had been closed down in accordance with that act.

28. Mr. FODOR requested information on Poland's position with regard to former Communist Party officials. Some new democracies in Eastern Europe had already taken measures to restrict the rights of former officials, especially in respect of employment. Had Poland done the same, and if so, what restrictions were envisaged?

29. Mr. SADI, referring to the question of the equality of the sexes, asked whether any distinction was made between the father and the mother with regard to the transmission of nationality to the children.

30. As to the right to life, he asked whether any cases of involuntary disappearance had occurred under the former regime. Since the right to life included the right to the protection of health, he also wished to know whether Poland had launched any information campaigns on AIDS and on means of preventing that disease.

31. Environmental questions seemed to have been very much neglected so far and, although measures had been adopted, it was open to question whether they would suffice to reverse the trend towards the deterioration of the environment.

32. Mr. HERNDL said that he had taken note with great satisfaction of the bill for the abolition of the death penalty referred to by the Polish delegation. Article 6, which enshrined the right to life, also covered the protection of unborn children. It was striking to note that the Polish authorities were dealing for the first time with the question of termination of pregnancy in their report. It would be interesting to have further information on the bill referred in paragraph 12 of the addendum (CCPR/C/58/Add.13) in order to see how it differed from the 1956 Act on admissible termination of pregnancy.

33. Mrs. SKORZEWSKA-LOSIAK (Poland) replying to the question concerning the attitude of the Polish authorities towards former Communist Party officials, said that that important issue had been fully discussed during the parliamentary election campaign which had just ended, but had not gone beyond that framework, and only some of the parties had mentioned it. Draft resolutions had been prepared on the issue, but the authorities did not plan to adopt any legislative provisions on it.

34. As to discrimination between men and women with regard to nationality, she explained that the Polish legal system made no distinction between the father and the mother as far as the citizenship of their children was concerned. The jus sanguinis principle prevailed and there was no discrimination on grounds of sex.

35. In reply to a question on the cases of disappeared persons in Poland, she explained that no case was known to the authorities.

36. With regard to termination of pregnancy, the report by Poland (CCPR/C/58/Add.10 and 13) drew attention to the problems which arose in that regard. She stressed that the Government had not taken any official position on that question and had merely informed the Parliament of the provisions

contained in the relevant bill which had been submitted. The question of termination of pregnancy was a very complex one, whether from the legislative, social or philosophical point of view, as had been amply demonstrated, moreover, by the public debate to which it had given rise. The previous Parliament had examined that question before 1989 without achieving any specific results. It had not adopted the bill submitted to it and the new Parliament would therefore have to take a decision on that question.

37. With regard to AIDS, she said that in recent years the Polish authorities had tried to make public opinion aware of the threat represented by that disease and to explain what preventive measures could be taken. They had adopted a number of measures and there were a great many publications on the subject in Poland. Persons suffering from AIDS were unfortunately the victims of discrimination by certain circles, which rejected them. Generally speaking, a broad campaign was under way in which the Ministry of Public Health and the Catholic Church were playing a leading role. The Catholic Church had also opened a reception centre for AIDS patients and there was an association which assisted them and also helped drug addicts.

38. Referring to the protection of the environment, she explained that 11 per cent of Polish territory was threatened by pollution because of the industrialization policy pursued by the former regime. For example, large industrial combines had been built without the proper precautions. Despite the obligation of enterprises to repair the damage caused, the injured persons had not always filed a complaint or claimed compensation, but had preferred an amicable settlement with the enterprise concerned. In some cases, the only solution would be to shut down enterprises which caused heavy pollution, but it should not be forgotten that such a measure would give rise to serious economic problems, particularly by increasing unemployment, and it would therefore be necessary to find carefully thought-out solutions for what was an extremely complex problem.

39. The CHAIRMAN invited the Polish delegation to reply to the questions raised in sections V and VI of the list of issues, which read:

"V. Liberty and security of the person (arts. 9 and 11)

(a) Please provide information on the impact of the process of reform of criminal law on the implementation of article 9 of the Covenant.

(b) What is the maximum length of pre-trial detention? Is there any provision for a regular review by a court of such detention?

(c) Please provide information on the composition, functions and activities of the misdemeanours commissions?

(d) What progress has been achieved in the work on the bill relating to the protection of mental health with regard to guarantees for the protection of the rights of persons confined in psychiatric hospitals?

VI. Treatment of prisoners and other detainees (arts. 7 and 10)

(a) With reference to the cases of ill-treatment mentioned in paragraph 48 of the report, please indicate whether investigations into these cases have taken place and, if so, whether any criminal or disciplinary measures have been taken against those found guilty.

(b) Are there any statistics about ill-treatment of persons remanded in custody? Have any particular measures been taken to prevent such ill-treatment?

(c) Please provide information on the number and nature of protests against abuses of authority by officials submitted under the procedure mentioned in paragraph 48 of the report.

(d) Please provide additional information on the conditions of detention, especially with regard to detention of juvenile offenders.

(e) Please comment on the statement in paragraph 75 of the report 'that the professional qualifications of many doctors working in prisons have declined and their attitude towards prisoners has not always been as it should be' and provide information on measures, if any, to deal with the problem.

(f) Please comment on the composition, powers and activities of the Prison Patronage Association."

40. Mrs. SKORZEWSKA-LOSIAK (Poland), replying to the question raised in section V (a), said that the reform of criminal law had been undertaken immediately after the "round table" agreements. Thus, it was now possible to have recourse to the courts in cases of detention and the principle of compensation had been extended to cases of wrongful detention. Detainees also had to be informed of the reasons for their detention.

41. With regard to pre-trial detention, the bill proposing a new penal code which had been submitted to the Council of Ministers specified that only the courts could order pre-trial detention. The principles governing pre-trial detention and the conditions applicable to such detention had also been redefined. Under the proposed new provisions, only a court could order pre-trial detention for a period of more than three months. In exceptional and particularly justified cases, the prosecutor could order pre-trial detention for 24 hours at most.

42. In reply to the questions in subparagraph (b), she explained that the maximum length of pre-trial detention was not laid down by law in Poland. At present, while a case was under investigation, the court dealing with it could extend the duration of that detention beyond three months. Beyond six months, the decision was taken by a higher court and only the Supreme Court could order pre-trial detention for more than one year.

43. Under the proposed new code, while the investigation was still under way, the court could extend pre-trial detention for not more than three months. At

the request of the prosecutor, it could then extend it up to six months. A higher court could extend it up to nine months in order to allow the investigation to be completed.

44. In general, the maximum duration of pre-trial detention did not exceed 18 months, and two years in the case of murder. Only the Supreme Court could extend those periods if it felt it necessary for a psychiatric examination of the accused, for an investigation abroad, etc.

45. The proposed new rules also provided for the possibility of review by the courts of decisions relating to detention.

46. At each stage of the judicial proceedings, the detainee had an opportunity to apply for review. If the application was rejected, he could appeal the decision. Those were the solutions applied at present, but she explained that there were other proposals that went even further.

47. Replying to the question in subparagraph (d), she said that the bill relating to the protection of mental health prepared by the Minister of Justice was now ready for submission to the Council of Ministers. The relatively slow progress on that bill was primarily the result of efforts to improve some aspects of the text. The experts who had taken part in the drafting of the bill had adopted resolutely modern solutions, which would have important financial implications, such as free treatment and free medicines for the mentally ill, special protection for their employment contracts, a number of social benefits, etc., which made the bill unacceptable as it stood. The State could not bear such a financial burden and some of the solutions included in the bill would therefore have to be abandoned.

48. It should be pointed out that extended stays in psychiatric institutions were now governed by a Ministry of Health regulation dating back to 1952. New provisions were due to be enacted shortly on that question.

49. The limitation of the freedoms of persons confined in psychiatric hospitals was a very important problem. At present, the lawfulness of that type of confinement was monitored by the prosecutor, who could order the release of the person concerned in the event of unlawful commital.

50. With regard to section VI (a), she indicated that the Civic Militia and the security services had been disbanded. In addition, the Police Act of April 1990 contained provisions relating to the monitoring of the activities of the police. In cases where it had been established that officials had been neglectful in performing their functions, they had been dismissed. In some cases, criminal proceedings had been instituted and the trials were pending.

51. In reply to the questions in subparagraph (b), she indicated that the number of cases of ill-treatment of persons remanded in custody was estimated on the basis of the number of complaints filed by the victims. She wished to make it clear that the correspondence of detainees on that question was not subject to any supervision by the prison authorities.

52. In 1990, 414 complaints of that kind had been recorded and 11 of them had later proved to be well founded. Penalties had been applied against 21 Prisons Service Officers, 6 of whom had lost their jobs. To date, 367 complaints had been lodged in 1991 and 10 of them had already been declared well founded. The statistical services of the Ministry of Justice published regular data on that question.

53. One of the means which had been adopted to put an end to the ill-treatment of persons remanded in custody was the replacement of prison staff, which had begun in 1990. Over 7,000 employees of the Prisons Service had thus been dismissed. In addition, 176 high-ranking officials of the Prisons Service had been removed from office and 410 high-level posts had been assigned to other officials. The problem had been such that only 35 per cent of the present officials had been in their posts for over five years.

54. Referring to the question in subparagraph (c), she wished to add something to what she had already said. In 1990, over 8,000 complaints had been filed against police officers and disciplinary proceedings had been instituted in 4,000 cases; 3,200 officials had already been sentenced. In 1991, penalties had been imposed on 1,320 officials.

55. In reply to the question contained in subparagraph (d), she indicated that the reform of detention conditions was based on the information compiled by the Civil Rights Spokesman. There were also other reasons for that reform, including the fact that the number of detainees had dropped by half. At present, 56,000 persons were in prisons or penitentiary establishments in Poland, whereas, only one or two years previously, that figure had been over 100,000. New prison regulations had been adopted to govern detention. She stressed that standards relating to the amount of space for each detainee in cells were in keeping with international standards.

56. She also noted that, until 1990, persons could be placed in pre-trial detention in detention centres belonging to the Militia, with disastrous consequences both for the rights of the persons thus detained and for their conditions of detention. That measure was governed by a provision of the Penal Executive Code which had been in force for 20 years, even though it was an emergency provision. That situation was intolerable and, even though the new prisons under the authority of the Ministry of Justice were not ready to receive detainees, it had been decided that persons would no longer be placed in pre-trial detention in the militia centres. In addition, detention conditions had been improved inasmuch as the number of detainees had decreased and pre-trial detention was being applied less and less.

57. With regard to the professional qualifications of many doctors, to which reference was made in subparagraph (e), she confirmed that they were often not very good. Detainees had protested a great deal in that regard. The Civil Rights Spokesman had requested the opinion of specialists of the public health services and the complaints had often proved to be well founded. Forty per cent of the senior staff of the Prisons Service had been replaced, so that an improvement in the situation could be expected. In addition, Medical Chambers had been set up as self-managing bodies and the doctors employed in prison establishments were often subject to the supervision of those Chambers.

58. There had recently been a sharp drop in the number of complaints concerning prison medical services; the number had declined from 860 in 1990 to 299 as at 18 October 1991.

59. Referring to subparagraph (f), she pointed out only, in view of the late hour, that the Prison Patronage Association was a national entity which had been established two years previously and had 200 members. It assisted convicted persons in prison establishments on their release and also helped their families. An agreement concluded between the Ministry of Justice and that Association defined the modalities of their cooperation. The Association's representatives were allowed to enter prison establishments; they could freely contact detainees and could obtain information from the Prisons Service. In addition, the Association had a home where it housed detainees without resources on their release from prison and it operated a welfare service to help with housing and employment problems.

60. The CHAIRMAN thanked the Polish delegation for its replies and said that the Committee would continue its consideration of the third periodic report of Poland (CCPR/C/58/Add.10 and 13) at its next meeting.

The meeting rose at 6.20 p.m.